

FAB

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 FEB 11 PM 12:25

UNITED STATES OF AMERICA,

Magistrate Docket No.

'08 MJ 0388

Plaintiff,

v.

COMPLAINT FOR VIOLATION OF:

DEPUTY

Rosendo ALCALA-Aparicio,

Title 8, U.S.C., Section 1326

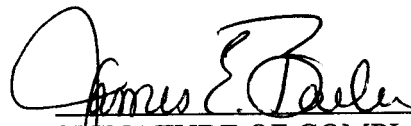
Deported Alien Found in the
United States

Defendant

The undersigned complainant, being duly sworn, states:

On or about **February 9, 2008** within the Southern District of California, defendant, **Rosendo ALCALA-Aparicio**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

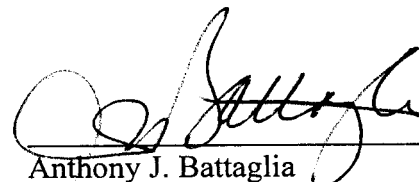


SIGNATURE OF COMPLAINANT

James E. Bailey

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **11th** DAY OF **FEBRUARY**
2008



Anthony J. Battaglia

UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

Rosendo ALCALA-Aparicio

PROBABLE CAUSE STATEMENT


I declare under the penalty of perjury that the following statement is true and correct:

On February 09, 2008, Field Operations Supervisor D. Deleon was performing line watch duties in an area known as "Airport Mesa". "Airport Mesa" is approximately 2.5 miles east of the San Ysidro, California Port of Entry and adjacent to the International Boundary Fence between the United States and Mexico. Illegal aliens trying to further their illegal entry into the United States commonly use this area. At approximately 8:30 A.M. Remote Video Surveillance System (RVSS) advised Agent Deleon of two individuals jumping over the secondary fence and heading north. At approximately 8:40 A.M., Agent Deleon arrived at "Airport Mesa" and encountered the two individuals running north across into some thick brush. After a brief search of the area Agent Deleon was able to find the individuals concealing themselves in some dense brush. Agent Deleon immediately identified himself as a United States Border Patrol Agent and questioned the individuals as to their citizenship and nationality. Both individuals, including one later identified as the defendant **Rosendo ALCALA-Aparicio** freely admitted to being citizens and nationals of Mexico and in the United States illegally without any proper immigration documents. The individuals were arrested and transported to the Imperial Beach Border Patrol station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on February 8, 2008 through Calexico, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.


The defendant was advised of his Miranda Rights and stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted to being a citizen and national of Mexico, and that he is present without immigration documents that would allow him to enter or remain in the United States legally.

Executed on February 10, 2008 at 9:30 a.m.


Terri L. Dimolios
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on February 9, 2008, in violation of Title 8, United States Code, Section 1326.


Anthony J. Battaglia
United States Magistrate Judge


Date/Time 2/10/08 1030AM